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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,200	08/06/2001	John E. McCall	00163.1560US01	8891
23552	7590	09/01/2004	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			DIXON, THOMAS A	
			ART UNIT	PAPER NUMBER
			3629	
DATE MAILED: 09/01/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/923,200

Applicant(s)

MCCALL, JOHN E.

Examiner

Thomas A. Dixon

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RW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,8,10-16,19,20,23-29,32 and 33 is/are pending in the application.
4a) Of the above claim(s) 4-7,9,17,18,21,22,30 and 31 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-3,8,10-16,19,20,23-29,32 and 33 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 06/04.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

1. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 23 June 2004 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

2. Applicant's arguments regarding the business data of the claims is convincing for the method claims 1, 23 and 27. However, they are not convincing regarding the system claim 16, and are seen to be non-functional, see below. Sharrow, from the 23 June 2004 IDS is seen to provide the business data and has been added to the rejections below.

3. Claims Directed to an Apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly* 263 F.2d 844, 847, 120 USPQ 582, 531 (CCPA 1959).

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1657 (bd Pat. App. & Inter. 1987). Thus the structural limitations of claim 16, including data collector, an escalation module, a mapping module and a registration/communication module are disclosed in McGuire et al, Moore, and Sharrow as described herein. Also as described the limitations of the claim do not distinguish the claimed apparatus from the prior art.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 10-14, 24, 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Sharrow (6,061, 668).

As per Claim 1, 16, 23, 27.

Sharrow ('668) discloses receiving collected data related to the service being provided by one or more field service providers, wherein the collected data is business data associated with a specific customer account for which the service is being provided, see column 5, lines 29-36;

determining whether the collected data indicates a time-critical situation, see column 5 lines 37-41 and figure 6A (620);

if the collected data indicates a time-critical situation, mapping the data conclusion to time-critical advisory information, see column 5, lines 37-41 and figure 6A (622); and

responsive to the operation of mapping the data conclusion to time-critical advisory information, establishing a communication session with the management system, wherein the time-critical advisory information is presented to the management

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system through the network device during the established communication system, see column 6, lines 17-24.

As per Claim 2, 28.

Sharrow ('668) discloses if the collected data is associated with a non time-critical situation, mapping the data conclusion to non time-critical advisory information, see column 5, lines 42-54;

storing the non-critical advisory information in a storage module, see column 5, lines 55-65.

As per Claim 10.

Sharrow ('668) discloses analyzing the collected data against an escalation rule to determine whether the collected data satisfies time-critical criterion, see column 5, lines 37-41.

As per Claim 11.

Sharrow ('668) discloses transmitting time-critical advisory information to a network device used by the management system in interacting with the advisory module via the network computer, see figure 5.

As per Claim 12.

Sharrow ('668) discloses the network device is a computing module and the advisory information is in the form of a script, see figure 6A.

As per Claim 13, 24.

Sharrow ('668) discloses the script is in the form of a textual script, see figure 6A.

As per Claim 14.

Sharrow ('668) discloses the management module is a computing system communicating with the advisory module via a computer-based language, see figure 3.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-3, 8, 16, 19, 20, 23, 25, 27-29, 32 are rejected under 35 U.S.C. 103(a) as being anticipated by McGuire et al (4,404,639) in view of Sharrow (6,061, 668).

As per Claim 1, 16, 23, 27.

McGuire et al ('639) discloses receiving collected data related to the service being provided by one or more field service providers, see column 4, line 58 – column 8, line 5;

determining whether the collected data indicates a time-critical situation, see column 12, lines 17-34;

if the collected data indicates a time-critical situation, mapping the data conclusion to time-critical advisory information, see column 12, lines 39-55; and

responsive to the operation of mapping the data conclusion to time-critical advisory information, establishing a communication session with the management system, wherein the time-critical advisory information is presented to the management system through the network device during the established communication system, see column 8, lines 6-26.

McGuire et al ('639) does not specifically disclose the data is business data.

Sharrow ('668) teaches appliances contacting central systems regarding business data, performing analysis of business data and sending time-critical advisory information, see abstract, and column 5, line 25 – column 6, line 24 and column 7, lines 16-40, for the benefit of remote billing of appliance use.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include business data in the system of McGuire et al ('639) for the benefit of remote billing for appliance use.

As per Claim 2, 28.

McGuire et al ('639) discloses if the collected data is associated with a non time-critical situation, mapping the data conclusion to non time-critical advisory information, see column 12, lines 17–34;

storing the non-critical advisory information in a storage module, see column 8, lines 6-26.

As per Claim 3, 20, 29.

McGuire et al ('639) discloses producing a copy of the time-critical advisory information, see column 8, lines 6-26; and

storing a copy of the time-critical advisory information in the storage module, see column 8, lines 6-26.

As per Claim 8, 19, 25, 32.

McGuire et al ('639) discloses receiving an instruction from the management system requesting that the time-critical advisory information be provided to a field service provider, see column 8, lines 6-26;

presenting the time-critical advisory information directly to the field service provider, see column 8, lines 6-26.

6. Claims 1-3, 8, 10-16, 19-20, 23-29, 22-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Moore (6,370,454) in view of Sharrow (6,061, 668).

As per Claim 1, 16, 23, 27.

Moore ('454) discloses receiving collected data related to the service being provided by one or more field service providers, see column 2, lines 3-7;

determining whether the collected data indicates a time-critical situation, see column 7, lines 43-45;

if the collected data indicates a time-critical situation, mapping the data conclusion to time-critical advisory information, see figure 5 (odometer, scheduled maintenance due); and

responsive to the operation of mapping the data conclusion to time-critical advisory information, establishing a communication session with the management system, wherein the time-critical advisory information is presented to the management system through the network device during the established communication system, see column 9, lines 2-15.

Moore ('454) does not specifically disclose the data is business data.

Sharrow ('668) teaches appliances contacting central systems regarding business data, performing analysis of business data and sending time-critical advisory information, see abstract, and column 5, line 25 – column 6, line 24 and column 7, lines 16-40, for the benefit of remote billing of appliance use.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include business data in the system of Moore ('454) for the benefit of remote billing for appliance use.

As per Claim 2, 28.

Moore ('454) discloses if the collected data is associated with a non time-critical situation, mapping the data conclusion to non time-critical advisory information, see figure 4 (within specifications);

storing the non-critical advisory information in a storage module, see column 5, line 65 – column 6, line 1.

As per Claim 3, 20, 29.

Moore ('454) discloses producing a copy of the time-critical advisory information, see column 7, lines 17-19 and column 9, lines 2-6; and

storing a copy of the time-critical advisory information in the storage module, see column 7, lines 17-19 and column 9, lines 2-6.

As per Claim 8, 19, 25, 32.

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Moore ('454) discloses receiving an instruction from the management system requesting that the time-critical advisory information be provided to a field service provider, see column 1, lines 44-58 and column 9, lines 2-6;

presenting the time-critical advisory information directly to the field service provider, see column 1, lines 44-58 and column 8, lines 21-52.

As per Claim 10, 33.

Moore ('454) discloses analyzing the collected data against an escalation rule to determine whether the collected data satisfies time-critical criterion, see column 7, lines 43-45.

As per Claim 11.

Moore ('454) discloses transmitting time-critical advisory information to a network device used by the management system in interacting with the advisory module via the network computer, see column 9, lines 2-5.

As per Claim 12.

Moore ('454) discloses the network device is a computing module and the advisory information is in the form of a script, see column 8, lines 21-62 and table 1.

As per Claim 13, 24.

Moore ('454) discloses the script is in the form of a textual script, see table 1.

As per Claim 14.

Moore ('454) discloses the management module is a computing system communicating with the advisory module via a computer-based language, see column 9, lines 2-21.

As per Claim 26.

Moore ('454) further discloses selecting one or more appropriate field service providers to receive the time-critical advisory information and wherein the operation of presenting the time-critical advisory information comprises presenting the time-critical advisory information to each of the one or more field service providers, see figure 5 (fixit), figure 6 (select my garage), column 1, lines 44-48 and column 9, lines 2-51.

7. Claims 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Moore ('454) in view of Sharrow, further in view of Chou et al (6,330,499).

As per Claim 15.

Moore ('454) discloses a variety of forms of communications, see column 9, lines 12-21, but does not specifically disclose the management system is a person receiving natural language scripts from the advisory module.

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Chou et al ('499) teaches a remote service center with a help desk, see column 2, lines 30-52 for the benefit of scheduling services or dispatching assistance.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include natural language communication with a person as taught by Chou et al ('499) for the benefit of scheduling services or dispatching assistance.

Prior Art made of Record

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

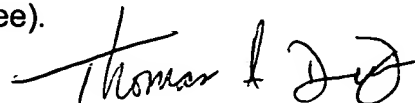
Rutkowski et al (5,826,270) discloses a system in which cable system technicians (CSR) may access a user's account data and make modifications while making a service call through the "in-Home" Order Processing System (IHOPS) using a transaction generator.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (703) 305-4645. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas A. Dixon
Primary Examiner
Art Unit 3629

August 04